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SENATE BILL 602

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

John Arthur Smith

AN ACT

RELATING TO TAXATION; ENACTING THE AFFORDABLE HOUSING TAX
CREDIT ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Affordable Housing Tax Credit Act".

Section 2. DEFINITIONS.--As used in the Affordable
Housing Tax Credit Act:

A. "affordable housing project" means land
acquisition, construction, building acquisition, remodeling,
improvement, rehabilitation, conversion or weatherization for
residential housing approved by the authority;

B. "authority" means the New Mexico mortgage
finance authority;

C. "department" means the taxation and revenue

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1 department;

2 D. "modified combined tax liability" means the
3 total liability for the reporting period for the gross receipts
4 tax imposed by Section 7-9-4 NMSA 1978 together with any tax
5 collected at the same time and in the same manner as the gross
6 receipts tax, such as the compensating tax, the withholding
7 tax, the interstate telecommunications gross receipts tax, the
8 surcharges imposed by Section 63-9D-5 NMSA 1978 and the
9 surcharge imposed by Section 63-9F-11 NMSA 1978, minus the
10 amount of any credit other than the affordable housing tax
11 credit applied against any or all of these taxes or surcharges;
12 but "modified combined tax liability" excludes all amounts
13 collected with respect to local option gross receipts taxes;
14 and

15 E. "person" means an individual, county,
16 municipality, tribal government, housing authority,
17 corporation, limited liability company, partnership, joint
18 venture, syndicate, association or nonprofit organization.

19 Section 3. INVESTMENT VOUCHERS--ISSUANCE--TRANSFER.--

20 A. The authority may issue an investment voucher to
21 a person who has made an investment of land, buildings, cash or
22 services for an affordable housing project approved by the
23 authority or for a trust fund administered by the authority.
24 The value of the voucher shall equal sixty percent of the
25 amount of cash invested or the fair market value of the land,

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1 building or service invested by that person. The authority may
2 approve an investment voucher for any affordable housing
3 project in accordance with Subsection B of this section and in
4 accordance with rules adopted by the authority. An investment
5 voucher that is approved for an affordable housing project
6 shall equal sixty percent of the amount of cash invested or the
7 fair market value of land, buildings or services invested in
8 that affordable housing project by a person upon issuance of
9 that investment voucher.

10 B. During the tax year:

11 (1) beginning on January 1, 2006, the
12 authority shall issue or approve investment vouchers not to
13 exceed two million six hundred sixty-five thousand dollars
14 (\$2,665,000) in aggregate value;

15 (2) beginning on January 1, 2007, the
16 authority shall issue or approve investment vouchers not to
17 exceed two million eight hundred eighty-nine thousand dollars
18 (\$2,889,000) in aggregate value; and

19 (3) beginning on January 1, 2008 and during
20 each subsequent tax year, the authority shall issue or approve
21 investment vouchers for each tax year not to exceed an
22 aggregate value of a base rate of one dollar eighty-five cents
23 (\$1.85) adjusted annually to account for inflation, multiplied
24 by the state population during the tax year as determined by
25 the United States census bureau.

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1 C. Any limitation on the issuance or approval of
2 investment vouchers for a tax year pursuant to Subsection B of
3 this section shall not apply to an investment voucher issued by
4 the authority during that tax year that was approved by the
5 authority during a previous tax year.

6 D. At the beginning of each tax year that begins on
7 or after January 1, 2008, the department shall make an
8 adjustment for inflation pursuant to Paragraph (3) of
9 Subsection B of this section by multiplying the base rate by a
10 fraction, the numerator of which is the consumer price index
11 ending during the previous tax year and the denominator of
12 which is the same index for the tax year that is two tax years
13 prior to the tax year for which a maximum aggregate value is
14 determined for the issuance of investment vouchers pursuant to
15 Paragraph (3) of Subsection B of this section.

16 E. An investment voucher issued by the authority
17 shall be numbered for identification and may be sold, exchanged
18 or otherwise transferred once for its full value to one person
19 or for partial value to one or more persons. The parties to
20 such a transaction shall notify the department and the
21 authority of the sale, exchange or transfer within ten days of
22 the sale, exchange or transfer.

23 F. The authority shall adopt rules for the
24 approval, issuance and administration of investment vouchers
25 pursuant to this section.

1 Section 4. AFFORDABLE HOUSING PROJECT COMPLETION

2 NOTICE. --The authority shall certify to the department approval
3 of an affordable housing project for which an investment
4 voucher is issued pursuant to the Affordable Housing Tax Credit
5 Act within twenty days of issuance of that voucher.

6 Section 5. AFFORDABLE HOUSING TAX CREDIT. --

7 A. The tax credit provided in this section may be
8 referred to as the "affordable housing tax credit". Except as
9 otherwise provided by the Affordable Housing Tax Credit Act, a
10 holder of an investment voucher that submits the investment
11 voucher to the department may apply for, and the department may
12 allow, a tax credit in an amount not to exceed the value of the
13 investment voucher during the tax year in which the authority
14 certifies to the department:

15 (1) completion of a service for which an
16 investment voucher has been issued pursuant to the Affordable
17 Housing Tax Credit Act; or

18 (2) approval by the authority or completion of
19 an affordable housing project for which a land, building or
20 cash donation has been made and for which an investment voucher
21 has been issued pursuant to the Affordable Housing Tax Credit
22 Act.

23 B. A holder of an investment voucher may apply for
24 all or a portion of the affordable housing tax credit against
25 the holder's modified combined tax liability, governmental

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1 gross receipts tax liability, personal income tax liability or
2 corporate income tax liability. Any balance of the affordable
3 housing tax credit claimed may be carried forward for up to
4 five years from the tax year during which the authority
5 certifies to the department approval of the affordable housing
6 project for which the investment voucher used to claim the
7 affordable housing tax credit is issued. No amount of the
8 affordable housing tax credit may be applied against a gross
9 receipts tax imposed by a municipality or county.

10 C. Notwithstanding the provisions of Section 7-1-8
11 NMSA 1978, the department may disclose to a person the balance
12 of the affordable housing tax credit remaining with respect to
13 any investment voucher submitted by that person.

14 Section 6. ADMINISTRATION OF THE ACT. -- Unless otherwise
15 provided by the Affordable Housing Tax Credit Act, the
16 department shall administer the Affordable Housing Tax Credit
17 Act pursuant to the Tax Administration Act.